

<p>Comcast of Georgia/Massachusetts, Inc.) and Comcast of Middletown, Inc. and Comcast of Boston, Inc. and Comcast of California/ Massachusetts/ Michigan/Utah, Inc. and Comcast of Maine/New Hampshire, Inc. and Comcast of Massachusetts I, Inc. and Comcast of Massachusetts II, Inc. and Comcast of Massachusetts III, Inc. and Comcast of Massachusetts/New Hampshire/Ohio, Inc.) and Comcast of New Hampshire, Inc.</p>	<p>Case No.: 04-cv-10414-RCL</p> <p>AFFIDAVIT OF RICHARD MALCOLM IN SUPPORT OF PLAINTIFFS' THE MOTION FOR SUMMARY JUDGMENT</p>
<p>Plaintiffs,</p>	
<p>vs.</p>	
<p><i>Joseph Amaro, Dimas Amaro, and Joseph Amaro and Dimas Amaro, Jointly d.b.a. CABLEJOINT and D's Electronics</i></p>	
<p>Defendants</p>	

Now comes the affiant, Richard Malcolm. He makes this his sworn statement,
under the pains and penalties of perjury and of his own personal knowledge:

1. I, Richard Malcolm, am an individual and I reside in Holliston, Massachusetts.
2. Presently, I have cable television service with Comcast at my home.
3. Back in 2001 I had cable television service with AT&T Broadband, the
company that, I understand, was the predecessor of Comcast.
4. In early 2001 I was interested in purchasing a television descrambler that
would descramble premium channels and pay-per-view signals without my
cable television Company's knowledge or authorization. Such a descrambler is
often called a "black box" and I will refer to it as such.
5. On or about January 27th 2001 I went online to search for a black box that
would work in Holliston, Massachusetts. A website,

www.midgetcable.com, had the black box for my area.

6. On or about January 27th 2001 I did an online purchase with my credit card of a black box that was called a "Viewmaster 4040".
7. I have reviewed the pertinent portions of the Pay Pal Record of the Defendant, Dimas Amaro, attached here to as **Exhibit A**. Those records are accurate records of the Defendant's sale of the black box to me.
8. Soon after my online purchase the Viewmaster 4040 black box arrived at my home. I was unable to get this particular black box to work on my system in Holliston, Massachusetts.
9. Thereafter, I called Midget Cable and complained. I was informed by a gentleman named Murphy that a different type of black box should be utilized in Holliston, Massachusetts.
10. Soon thereafter I mailed my "Viewmaster" black box back and received in exchange a "rebellion" black box.
11. The rebellion black box I received could descramble the AT&T Broadband and later the Comcast premium channels and pay-per-view channels.
12. I do not recall any conversations in which I was told I needed to restrict the usage of the black box to channels I subscribed to nor where there any documents that came with the black box that contained a similar disclaimer.
13. I have reviewed the pertinent portion of the Defendant's computer records attached here to as **Exhibit B**. Those records are accurate records of my exchange of Viewmaster black box in my receipt of the rebellion black box from the Defendant.
14. In June of 2002 an individual from the cable television company came to my

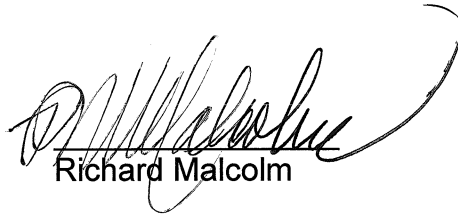
house when I was not home and my wife surrendered the rebellion black box to him.

15. In June of 2005 Comcast brought a civil action against me in the Massachusetts Federal District Court, Comcast v Malcolm Case No.: 1:05-cv-11156-NMG, the lawsuit was all about me using the black box to obtain Comcast signals without authorization.

16. Recently, I agreed to settle the lawsuit with Comcast by paying them some money and by my agreeing to cooperate with my truthful testimony about my purchasing the black box from the Defendants in this lawsuit.

17. I have made this Affidavit as part of my obligation to give truthful testimony regarding my purchase of the black box in question.

Subscribed and sworn to, under the pains and penalties of perjury, this 21st day of January, 2006.



Richard Malcolm